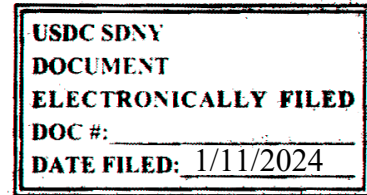


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



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CYNTHIA BROWN,

Plaintiff,

23-CV-05593 (DEH)(SN)

-against-

ORDER

ZETA CHARTER SCHOOL,

Defendant.
-----X

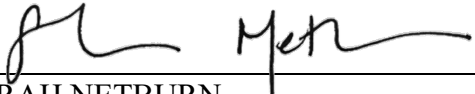
SARAH NETBURN, United States Magistrate Judge:

Defendant filed a motion to dismiss Plaintiff's complaint. Defendant argues, pursuant to Federal Rule of Civil Procedure 12(b)(6), that Plaintiff's complaint fails to state a claim. By February 12, 2024, Plaintiff shall either file opposition to Defendant's motion to dismiss or file an amended complaint. If Plaintiff files an opposition, Defendant may file a reply, if any, by February 26, 2024. If Plaintiff elects to oppose the motion to dismiss, she may not be granted leave to amend later.

Plaintiff is advised that an amended complaint would replace her initial complaint. When deciding the motion to dismiss, the Court cannot consider any facts alleged in the opposition brief that are not also alleged in the most recently filed complaint. O'Brien v. Nat'l Prop. Analysts Partners, 719 F. Supp. 222, 229 (S.D.N.Y. 1989) ("[I]t is axiomatic that the Complaint cannot be amended by the briefs in opposition to a motion to dismiss."). For that reason, if Plaintiff chooses to file an amended complaint instead of filing opposition to Defendant's motion to dismiss, that amended complaint should include all relevant facts and claims.

The Court recommends that Plaintiff, proceeding *pro se*, contact the New York Legal Assistance Group (“NYLAG”) Legal Clinic for *Pro Se* Litigants for guidance with drafting either an opposition to the motion to dismiss or an amended complaint. NYLAG’s Clinic can be reached at 212-659-6190. Additional information on the Clinic is attached. The Court also recommends that Plaintiff review the attached document titled “How to Oppose a Motion” for further guidance.

SO ORDERED.



SARAH NETBURN
United States Magistrate Judge

DATED: January 11, 2024
New York, New York